

CHAPTER 53
SUPREME COURT
(CRIMINAL CASE MANAGEMENT) RULES

S.I. 58/2012

(SECTION 15 AND 76)

[Commencement 20th April, 2012]

1. These Rules may be cited as the Supreme Court (Criminal Case Management) Rules. Citation.
2. In these Rules — Interpretation.
 - “court” means the Supreme Court;
 - “case” means criminal proceedings.
3. These Rules shall apply to the management of cases in the Supreme Court. Application of Rules.
4. The purpose of these Rules are — Purpose of Rules.
 - (a) to promote the active management of criminal cases; and
 - (b) to cause the disclosure and resolution of material issues prior to a trial, so as to avoid delay and promote certainty.
5. (1) Arraignments shall take place at least once a month before a judge assigned by the Chief Justice. Arraignments.
 - (2) On arraignment, the court shall —
 - (a) assign the case to a trial judge for hearing;
 - (b) fix a date for the trial; and
 - (c) fix a date for mention within three weeks of the arraignment date.
6. (1) At the date for mention, the trial judge shall fix a date within three months for a directions hearing. Status hearings.
 - (2) At the directions hearing, the trial judge shall give directions, as necessary, having regard to the duty of the court as outlined in rule 7 and shall fix a date for a pre-trial review of the case, which date shall not be less than six weeks before the trial date, to enable any outstanding material issues to be addressed before trial.
7. (1) The court shall actively manage each case before it by giving appropriate directions at an early stage of the case as needs be. Duty of court.

(2) For the purposes of these Rules, “active case management” includes —

- (a) the early identification of the material issues involved;
- (b) the early identification of the needs of witnesses;
- (c) achieving certainty as to what must be done, by whom, and when, in particular by the early setting of a timetable for the progress of the case;
- (d) monitoring the progress of the case and compliance with directions;
- (e) ensuring that evidence, whether disputed or not, is presented in the most efficient and clear manner;
- (f) discouraging delay, dealing with as many aspects of the case as possible on the same occasion, and avoiding unnecessary hearings;
- (g) encouraging cooperation among parties in the progression of a case; and
- (h) making use of the modern technology available.

(3) The court must actively manage the case by giving any direction appropriate to the needs of that case as early as possible.

(4) In fulfilment of its duty, the court shall conduct a directions hearing and a pre-trial review hearing unless in the discretion of the court, circumstances make such unnecessary.

Duty of the parties.

8. Each party to a case shall —

- (a) actively assist the court in fulfilling its duty under rule 7, without or if necessary, with directions; and
- (b) apply for directions, when necessary, for the further effective management of the case.

Designation of case progression officers.

9. (1) At the initial directions hearing, each party shall, unless the court otherwise directs —

- (a) designate a person responsible for progressing the case; and
- (b) inform the court and the other party of the name of the person appointed under paragraph (a) and how that person may be contacted.

(2) The court shall, in fulfilling its duty under rule 7, where appropriate —

- (a) designate the court officer responsible for progressing the case; and
- (b) ensure that the parties know who that person is and how that person may be contacted.
- (3) A person designated under this rule shall be referred to as a “case progression officer”.

10. Every case progression officer shall —

- (a) monitor compliance by the parties with directions given by the court;
- (b) ensure that the court is kept informed of events that may affect the progress of that case;
- (c) ensure that he can be contacted promptly about the case during normal business hours;
- (d) act promptly and reasonably in response to communications about the case; and
- (e) appoint a substitute to fulfil his duties and keep him informed of the progress of the other case progression officers, where he is unavailable.

Duties of case progression officers.

11. (1) The court may, in fulfilling its duty under rule 7, duly give any direction to actively manage a case and in particular, may —

- (a) give directions on its own initiative or on application by a party;
- (b) ask or allow a party to propose directions;
- (c) for the purpose of giving directions, receive applications and representations by letter, by telephone or by any other means of electronic communication, and conduct a hearing by such means, provided that in cases where applications are received and directions given by telephone, the party making the application shall, within forty-eight hours of the giving of such directions, submit for the approval of the judge who considered the application, or the Registrar, confirmation in writing of the application as well as the directions given;
- (d) give directions without a hearing;
- (e) fix, postpone, bring forward, extend or cancel a hearing;

Case management powers of the court.

- (f) shorten or extend (even after it has expired) a time limit fixed by any direction;
- (g) require that issues in the case should be determined separately, and decide in what order they will be determined; and
- (h) specify the consequences, if any, of failing to comply with any direction.

(2) Any power to give directions under this Part includes a power to vary or revoke those directions, or any one of them.

(3) If a party fails to comply with a rule or a direction, the court may, after explanation by the party —

- (a) fix, postpone, bring forward, extend, cancel or adjourn a hearing; and
- (b) impose such other sanction as may be appropriate.

Application to vary a direction.

- 12.** (1) A party may apply to vary a direction, if —
- (a) the direction given by the court was made without a hearing;
 - (b) the direction given by the court was made in the absence of the party; or
 - (c) the circumstances in the case have changed.
- (2) A party who applies to vary a direction must —
- (a) apply as soon as practicable after becoming aware of the grounds for doing so; and
 - (b) give notice to the other party as to the nature of the application.

Agreement to vary a time limit fixed by a direction.

13. (1) The parties to a case may agree to vary a time limit fixed by a direction, provided that —

- (a) the variation will not —
 - (i) affect the date of any hearing that has been fixed; or
 - (ii) significantly affect the progress of the case in any other way;
- (b) the court has not prohibited variation by agreement; and
- (c) the case progression officer of the court is promptly informed.

(2) The court's case progression officer shall satisfy himself that paragraph (1)(a) is satisfied, failing which he must refer the agreement to the court.

14. (1) At every hearing, if a case cannot be concluded there and then, the court shall give directions so that it can be concluded at the next hearing or as soon as possible thereafter.

Case preparation and progression.

(2) At every hearing, the court shall —

- (a) if the defendant is absent, decide whether to proceed nonetheless;
- (b) where no plea has been made, take the defendant's plea or enquire whether the defendant maintains his plea, if a plea has been made;
- (c) set, follow or revise a timetable for the progress of the case, which may include a timetable for any hearing including the trial itself;
- (d) in giving directions, ensure continuity in relation to the court and to the parties' representatives where that is appropriate and practicable.

15. (1) This rule applies to a party's preparation for trial and for the purposes of this rule and rule 16, "trial" includes any hearing at which evidence is introduced.

Readiness for trial.

(2) Pursuant to rule 8, each party shall —

- (a) comply with directions given by the court;
- (b) take every reasonable step to ensure that the party's witnesses will attend when needed;
- (c) make appropriate arrangements to present any written or other material (such as skeleton arguments or written submissions); and
- (d) promptly inform the court and the other parties of anything that may —
 - (i) affect the date or duration of the trial; or
 - (ii) significantly affect the progress of the case in any other way.

(3) The court may require a party to give a certificate of readiness.

16. In managing the conduct of a trial, the court shall establish with the active assistance of the parties, what issues they intend to raise and may require a party to identify —

Conduct of a trial.

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- (a) which witnesses, (if any) the party wants to give oral evidence;
 - (b) the order in which that party wants those witnesses to give their evidence;
 - (c) whether the party requires an order compelling the attendance of a witness;
 - (d) what arrangements are desirable to facilitate the giving of evidence by a witness;
 - (e) what arrangements are desirable to facilitate the participation of any other person, including the defendant;
 - (f) whether the party intends to introduce any written evidence;
 - (g) what other material, if any, the person intends to make available to the court in the presentation of the case;
 - (h) whether the party intends to raise any point of law that could affect the conduct of the trial; and
 - (i) what timetable the party proposes and expects to follow.

Record of
directions.

17. The court shall make available to the parties a record of all directions given by the court.

Form.
Schedule.

18. The form set out in the Schedule to these Rules shall be used for the purposes of these Rules.

SCHEDULE**(Rule 18)****CRIMINAL CASE MANAGEMENT HEARING FORMS**

OFFICE USE ONLY

Case No: _____

DEFENDANT'S QUESTIONNAIRE

(This questionnaire is to be provided to the Defendant at his committal and completed by the Defendant or his counsel prior to the arraignment and presented at the arraignment)

DEFENDANT:

Name: _____

First_____
Middle_____
Surname*Other Names (alias):*_____
Other Name 1_____
Other Name 2_____
Other Name 3

Date of Birth: _____ / _____ / _____

Day

Month

Year

Home Address: _____

Apt./House No.

Street Name

District and Island

REPRESENTED BY COUNSEL:

At Preliminary Enquiry

For current Trial

[]Yes []No

[]Yes []No

If no Counsel, do you desire assigned counsel?

[]Yes []No

COUNSEL AT PRELIMINARY INQUIRY:_____
First_____
Middle_____
Surname**COUNSEL FOR TRIAL:**_____
First_____
Middle_____
Surname

(To be completed by counsel)

PROGRESSION OFFICER:**Name:**

First	Middle	Surname
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PLEA:

Plea to be offered (*if known*): Guilty [] Not Guilty [] Other []

Is the defendant —

Fit to Plead: Yes [] No []

Fit to stand trial? Yes [] No []

Further investigations for: _____

ADVICE:

1. Has Defendant been advised of alternative pleas available for charge on which to stand trial? [] Yes No []
2. Has Defendant been advised of the traditional benefit of an early plea of guilt? [] Yes No []

WITNESSES/ EXPERTS:**For the Defence**

Number to be called _____

Subpoenas required? Yes [] No []

Any outside jurisdiction? Yes [] No []

Expert evidence to be relied on? Yes [] No []

Intend to challenge prosecution evidence? Yes [] No []

For witnesses/experts outside jurisdiction, is any assistance needed from the State to facilitate attendance of witnesses? Yes [] No []

Specify type(s): _____

SPECIAL ISSUES/ARRANGMENTS:

Are there any issues that can be dealt with by consent or by service of notices under the Evidence Act or other legislation? Yes [] No []

Specify: _____

Are there any special legal issues of admissibility or otherwise that are expected to arise (*voir dire*, editing statements, etc.)? Yes [] No []

Specify: _____

[If required] Provisions made for written submissions:

Submission deadline

Specify- _____ / _____ / _____
Day / Month / Year

Any special arrangement(s) to be made for —

Young witnesses: Yes [] No []

Witnesses who are otherwise vulnerable: Yes [] No []

Indicate vulnerability: _____

Witnesses with disabilities [Itemize Here]? Yes [] No []

Indicate disabilities: _____

Any special arrangement(s) to be made for the Defendant? Yes [] No []

STATEMENT OF DEFENCE:

(This section is entirely optional and goes beyond the requirement to advise of an alibi. No sanction can be applied if this section is not filled out.)

Briefly state what the defence is likely to be:

Has the Defendant, if he intends to rely on an alibi, provided the details of that alibi to the court or the Attorney-General in accordance with the Alibi Notices?

Yes [] No []

PROSECUTION’S QUESTIONNARE

(This questionnaire is to be completed by the Prosecution before the arraignment and presented at the arraignment)

Has the Prosecution made full disclosure of all matters being relied upon (including expert witnesses)? Yes [] No []

If no, what is outstanding? Full disclosure to be made when?

- 1. _____ / _____ / _____
Day / Month / Year
- 2. _____ / _____ / _____
Day / Month / Year
- 3. _____ / _____ / _____
Day / Month / Year

COUNSEL FOR TRIAL:

First Middle Surname

PROGRESSION OFFICER:

Name:

First Middle Surname

WITNESSES/ EXPERTS:

For the Prosecution

Number to be called _____

Subpoenas required? Yes [] No []

Any outside jurisdiction? Yes [] No []

Exert evidence to be relied on? Yes [] No []

Intend to challenge Defence evidence, (if any)? Yes [] No []

SPECIAL ISSUES/ARRANGMENTS:

Are there any issues that can be dealt with by consent or by service of notice under the Evidence Act or other legislation? Yes [] No []

Specify: _____

Are there any special legal issues of admissibility or otherwise that are

expected to arise (*voir dire*, editing statements, etc.)? Yes [] No []

Specify: _____

[If required] Provisions made for written submissions:

Submission deadline

Specify- _____ / ____ / ____
Day / Month / Year

Any special arrangement(s) to be made for —

Young witnesses: Yes [] No []

Witnesses who are otherwise vulnerable: Yes [] No []

Indicate vulnerability: _____

Witnesses with disabilities [Itemize Here]? Yes [] No []

Indicate disabilities: _____

Any special arrangement(s) to be made for the Defendant? Yes [] No []

FOR COMPLETION BY COURT

TRIAL TIMETABLE:

Date: ____ / ____ / ____ Expected Length: __ Weeks __ Days
Day/ Month/ Year

Any other special arrangement and/or considerations for trial:

Completed by: _____

Date: _____